



**DEPARTMENT OF PLANNING
AND ZONING STAFF REPORT**

Date of Hearing: October 21, 2014

PLANNING COMMISSION PUBLIC HEARING

SUBJECT: **ZOAM 2014-0005**, Proposed Zoning Ordinance Amendment to the Revised 1993 Loudoun County Zoning Ordinance to add “**Dog Park**” as a permitted use in the HOA Common Open Space within the Planned Development-Housing Zoning District (PD-H3, PD-H4 and PD-H6)

ELECTION DISTRICT: Countywide

CRITICAL ACTION DATE: At the Discretion of the Board of Supervisors

STAFF CONTACTS: Val Thomas, Project Manager
Mark Stultz, Deputy Zoning Administrator
Nicole Dozier, Zoning Administrator
Julie Pastor, Director, Department of Planning and Zoning

APPLICANT: Loudoun County Board of Supervisors

PURPOSE:

Pursuant to a Resolution of Intent to Amend, adopted by the Board of Supervisors (Board) on July 16, 2014, an amendment to the Revised 1993 Loudoun County Zoning Ordinance (‘the Ordinance’) is proposed to permit “Dog Park” in the in HOA common open space in the Planned Development-Housing Zoning District. The amendment proposes to amend the definition of “Open space, common” in Article 8 of the Zoning Ordinance to specify that a non-commercial “Dog Park” is permitted in the Homeowners’ Association (HOA) owned open space within the PD-H Zoning Districts.

RECOMMENDATION:

Staff recommends that the Planning Commission forward ZOAM-2014-0005 to the Board of Supervisors with a recommendation of approval.

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SUGGESTED MOTIONS:

1. I move that the Planning Commission forward ZOAM 2014-0005 to the Board of Supervisors with a recommendation of approval, based on the draft text dated September 30, 2014 and included in **Attachment 2**.

OR

2. I move that the Planning Commission forward ZOAM 2014-0005 to a Planning Commission work session for further discussion.

OR

3. I move an alternate motion.

I. EXECUTIVE SUMMARY

On July 16, 2014, the Board of Supervisors (“Board”) adopted a Resolution of Intent to amend (**Attachment 1**) the Revised 1993 Loudoun County Zoning Ordinance (“Zoning Ordinance”) and directed Staff to prepare amendments to Article 8, Definition of “Open space, common”, to specify that a **non-commercial “Dog Park”** is permitted on HOA owned common open space within the PDH Zoning District. The amendment proposal limits dog parks to HOA-owned common open space and to Planned Development – Housing zoning districts to reduce the impact of the proposal and to ensure community-sensitive management of the facilities.

The draft text is included as **Attachment 2**.

II. BACKGROUND

The use “Dog Park” was first established as a specific use under the Zoning Ordinance with the approval of ZOAM-2002-0001, effective November 4, 2002. The focus of ZOAM-2002-0001 was to provide a comprehensive rewrite of the regulations for the Planned Development-Transit Related Center (PD-TRC) Zoning District. As part of ZOAM-2002-0001, “Dog Park” was added as a Special Exception Use in the PD-TRC Zoning District and a definition of “Dog Park” was added to Article 8 of the Zoning Ordinance, which reads as follows:

Dog Park: *A park that provides a variety of recreational amenities for dogs and persons that may include benches, parking, restrooms, and water fountains. If dogs are to be unleashed, the area must be fenced.*

The addition of “Dog Park” as a specific use to the Zoning Ordinance and its inclusion only in the PD-TRC Zoning District resulted in “Dog Park” not being allowed as a Permitted Use or Special Exception Use in any other Zoning District. Staff and the Board of Supervisors have heard from residents expressing their desire to establish a “Dog Park” on Homeowner’s Association (“HOA”) common areas in their communities. The County has issued several Zoning Determinations stating that a “Dog Park” is not a Permitted Use or Special Exception

Use in the various Zoning Districts where such communities are located. The County does permit a “Dog Park” as an accessory use to a public park.

On September 7, 2011 the Board approved a Resolution of Intent to Amend the Zoning Ordinance to allow “Dog Park” as a use within the PD-H Zoning District. On March 7, 2012, the Board reviewed its Strategic Plan and voted 6-3 (Letourneau, Reid and Williams opposed) to remove such a ZOAM from the Board’s work plan. At its May 15, 2013 Business Meeting, the Board unanimously approved a motion to *“amend its Strategic Plan by adding a zoning ordinance amendment allowing private dog parks within the PD-H zoning district and direct staff to add this item to the work plan and timeline for ongoing initiatives as staff resources become available upon completion of current initiatives of the Board.”* At its June 4, 2014 Business Meeting, the Board voted 8-0-1 (Higgins absent) to direct staff to continue forward to complete the existing initiatives identified in the Strategic Plan and to then take up dog parks as a priority.

At its July 16, 2014 Business Meeting, the Board approved a motion (9-0-0), adopting the Resolution of Intent to amend the Revised 1993 Loudoun County Zoning Ordinance to permit “Dog Park” in the HOA owned common open space in the Planned Development-Housing Zoning Districts.

III. SUMMARY OF PROPOSED TEXT CHANGES

The changes proposed with the amendment are highlighted in the draft text included as **Attachment 2**. The summary of the proposed text changes is as follows:

Article 8, Definitions.

Open space, common: Revise the definition of Open space, common to add language stating that a non-commercial dog park owned and operated by the Homeowners’ Association (HOA) for a Planned Development Housing (PDH) Zoning District can be located within common open space owned by the HOA for such PD-H Zoning District. The current definition of open space in the Zoning Ordinance qualifies three different types of open space: 1) Open space, active recreation; 2) Open space, common; and 3) Open space, dedicated. This amendment proposes to revise the specific definition of “Open space, common” to allow a “Dog Park” use to be located in an HOA owned common open space in the PDH Zoning District only.

There are no additional Zoning Ordinance regulations and/or performance standards proposed for the use. Regulations and/or performance standards applicable to a “Dog Park” use can be imposed by the individual HOA for the specific PDH community if so desired.

IV. AGENCY REFERRALS

The proposed, draft text for ZOAM 2014-0005 was sent to the following referral agencies for comments: Building and Development - Engineering, Environmental Review Team, and Zoning Permits; County Attorney’s Office; Planning and Zoning - Community Planning and

Land Use Review; Transportation and Capital Infrastructure; Health Department; Fire and Rescue; General Services; and Parks, Recreation and Community Services. Most of the referral agencies are in support of the ZOAM and had no comments. Copies of the referrals are included in **Attachment 3** to the Staff Report. The following is a summary of the referral comments that were provided.

PLANNING AND ZONING

The Department of Planning and Zoning Land Use Review Division and Community Planning Division referrals identified no issues with the proposed amendment.

BUILDING AND DEVELOPMENT

*The Environmental Review Team in the Engineering Division of the Department of Building and Development identified a couple of issues with the proposed amendment, which are discussed in **Section V.4 and V.5** below.*

HEALTH DEPARTMENT

The Department of Health had no issues with the proposed amendment.

FIRE AND RESCUE

The Department of Fire and Rescue had no issues with the proposed amendment.

DEPARTMENT OF PARKS, RECREATION AND COMMUNITY SERVICES

The Department of Parks, Recreation and Community Services supports the proposed amendment and had no issues.

DEPARTMENT OF GENERAL SERVICES

*The Department of General Services supports the proposed amendment, but raised an issue regarding allowing dog parks in floodplain areas and the removal of pet waste. These issues are discussed in **Section V.4 and V.5** below.*

DEPARTMENT OF TRANSPORTATION AND CAPITAL INFRASTRUCTURE

*The Department of Transportation and Capital Infrastructure questioned whether there is a need to develop regulations for on-street and off-street parking spaces in order to serve the dog park use. This issue is discussed in **Section V.6** below.*

V. ISSUES FOR CONSIDERATION

This Section provides a summary of the issues that have been identified by the Referral Agencies. In addition, Staff considered a number of broader issues raised by the public. The referral agency comments and other issue topics are provided below, along with Staff comments.

- 1) **Permitting dog parks on land that is not owned by an HOA, but is contractually controlled or leased by an HOA?** Should the amendment allow for dog parks that are located on HOA common area as well as on land that is leased or contractually controlled by an HOA, regardless of whether the land is owned by a Commercial Owners Association or a private owner?

Staff Comment:

The Board chose to limit the scope of the amendment to permit dog parks only in HOA owned common open space in the PDH Zoning Districts without performance standards. It was noted that broadening the scope of the amendment could increase the complexity of the amendment and impact the timeline of the amendment through the public process.

Based on the Board's direction to limit the scope on the proposed amendment in order to expedite approval, the Resolution of Intent to Amend, as adopted, does not allow for the amendment to be broadened to: 1) allow dog parks on land that is owned by a party other than an HOA and 2) allow dog parks on land that is not common open space within a PD-H Zoning District. In order to amend the Zoning Ordinance to allow dog parks on land that is not common open space would require that the use be added to the use lists of specific zoning districts rather than the current approach of amending the Zoning Ordinance definition of "open space, common."

If dog parks were added to the use list of specific zoning districts, the County could not limit the operation of dog parks to HOAs, which would result in the need to consider performance standards for the use, as the owner of a dog park may not be accountable to the residents of the community. While the Board did limit the scope of this particular amendment, the Board may wish to consider initiating a separate amendment in the future that would allow for other types of dog parks and allow them to locate in other areas of the County. This is an approach that the Planning Commission could recommend to the Board.

- 2) Should the amendment permit **a joint venture amongst more than one HOA that might collectively pursue an agreement for a dog park?** Should a dog park located on a common open space parcel owned by one HOA be available for use by the residents of other HOA communities through a private agreement?

Staff Comment:

The proposed amendment would allow multiple HOA's to establish a private agreement that would allow a non-commercial, HOA owned dog park that is located within the common open space of one PD-H Zoning District to be used by the residents of another HOA.

- 3) **Permitting dog parks in existing County Parks or in Northern Virginia Regional Park Authority (NVRPA) Parks, such as Algonkian Park?** Should the amendment allow for dog parks in existing County Parks or NVRPA Parks?

Staff Comment:

Dog parks are currently permitted as an accessory use in County Parks and other public parks, including NVRPA parks and, therefore no amendments are needed.

- 4) **Should the amendment prohibit dog parks in the floodplain and within 50 feet of jurisdictional waters and wetlands?** The Environmental Review Team (“ERT”) in Building and Development and the Department of General Services raised a concern about allowing “Dog Parks” in the floodplain areas. The ERT cites Fairfax County Park Authority as an example of where Off-Leash Dog Areas are prohibited from locating within floodplain areas and the Resource Protection Area, and require bag dispensers and trash receptacles. The ERT notes that the American Kennel Club recommends standards for Dog Parks that addresses topics such as adequate drainage, surface material, covered trash receptacles, waste bags, fence height, signage, hours of operation and the establishment of separate areas for large and small dogs. The ERT also raised a concern with allowing the use within 50 feet of jurisdictional waters and wetlands based on a jurisdictional determination approved by the Army Corps of Engineer. The ERT recommends that the Dog Park use be prohibited from locating in the floodplain areas as well as within 50 feet of jurisdictional waters and wetlands based on a jurisdictional determination approved by the Army Corps of Engineer.

Staff Comment:

The current Floodplain Overlay District (FOD) regulations in the Zoning Ordinance (Section 4-1500), would allow dog parks in the major and minor floodplain of the FOD. The dog park use would be considered either passive or active recreation use, depending on the particular park or proposed uses associated with the dog park (e.g. play equipment). The FOD regulations do limit the amount of impervious surface that is permitted as part of a recreation use. The proposed, draft text in Article 8, allows for the use to be located in the floodplain areas of the County.

- 5) **Should the amendment include performance standards for the dog park use?** The ERT referral notes that pet waste is a nonpoint source of fecal coliform and E. Coli bacterial associated with stream impairments identified in the County by the Virginia Department of Environmental Quality and recommends adding performance standards, such as: 1) prohibiting the use from locating in floodplain areas; 2) requiring that the use be located at least 50 feet from jurisdictional waters and wetlands; and 3) require pet waste disposal facilities (e.g. pet waste bag dispensers and trash cans) with a minimum of one waste bag dispenser and one trash receptacle to be located at each entrance to a Dog Park to be maintained by the HOA. The ERT also recommends that any performance standards developed in conjunction with this amendment should apply to the Dog Park use in the PD-TRC (Planned Development-Transit Related Center) Zoning District.

Staff Comment

As noted earlier, there are no performance standards, being proposed with this amendment. The Board Action Item and Resolution of Intent to Amend (July 16,

2014) did provide the Board with the option to broaden the scope of the amendment to include establishing additional use regulations/performance standards for the “Dog Park” use. However, the Board limited the scope of the amendment to permit the use only in HOA owned common open space in the PDH Zoning Districts. It was noted that broadening the scope of the amendment could increase the complexity of the amendment and impact the timeline of the amendment through the public process. Further, it is noted that the Intent to Amend did not include revisions to the PD-TRC Zoning District. However, it is noted that “Dog Park” is a Special Exception use in the PD-TRC Zoning District, which will allow impacts to be addressed through conditions of approval.

As currently proposed by the ZOAM, regulations and/or performance standards applicable to a “Dog Park” use may be imposed by the individual HOA for the specific PDH community, if so desired.

- 6) **Should the amendment include on-street or off-street parking spaces for the dog parks?** The referral from DTCL (Department of Transportation and Capital Infrastructure) questioned whether there is a need to develop regulations for on-street and off-street parking spaces in order to serve the dog park use.

Staff Comment:

Given that the amendment proposes to only allow non-commercial dog parks in the HOA common open space, which is intended to be accessible to the residents of the community that it serves, similar to tot lots, Staff did not see the need to require parking for the open space use. An HOA could choose to provide parking for the use, which would require the approval of a site plan.

VI. ZONING ORDINANCE CRITERIA FOR APPROVAL

Section 6-1211(D), Text Amendments, of the Revised 1993 Loudoun County Zoning Ordinance states “...for an amendment of the text of this Ordinance, the Planning Commission shall consider the following matters:”

Standard: *Whether the proposed text amendment is consistent with the Comprehensive Plan.*

The County’s overall land-development strategy is to encourage compact, mixed-use developments that provide people with the opportunity to live, work, recreate and shop in a pedestrian-friendly environment (Revised General Plan, Chapter 5, Residential, text). The Plan does not specifically identify “Dog Parks” as a use within residential area; however, it does provide guidance on a variety of anticipated active and passive outdoor recreational uses similar to those included in the definition for a “Dog Park” in the Zoning Ordinance. Adding non-commercial dog parks, to be owned and operated by homeowner’s associations in Planned Development-Housing Zoning Districts, does not conflict with the Residential Policies of the Plan. The proposed amendment is consistent with the Comprehensive Plan.

Standard: *Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.*

The intent of this Ordinance is defined under Section 1-102, which states: “This Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan. The proposed text amendment promotes a number of the Zoning Ordinance’s stated purposes and goals, including: guiding and regulating the orderly growth, development and redevelopment of Loudoun County in accordance with a well-considered plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people; protecting the established character and the social and economic wellbeing of both private and public property; promoting, in the public interest, the best utilization of land; providing for adequate light, air, convenience of access, and safety from fire, flood and other dangers; and facilitating the creation of a convenient, attractive and harmonious community. The proposed amendment is consistent with the intent and purpose of the Zoning Ordinance.

| VII. ATTACHMENTS | |
|--|-------------|
| Attachment | Page |
| 1. Board Action Item – Resolution of Intent to Amend (For Background Purposes) | A-1 |
| 2. Article 8, Definitions, Draft Text Dated September 30, 2014 | A-6 |
| 3. Referral Comments | A-7 |
| *This Staff Report with attachments (file name PCPH STAFF REPORT 10-21-2014.PDF) can be viewed online on the Loudoun Online Land Applications System (LOLA) at www.loudoun.gov . Paper copies are also available in the Department of Planning. | |



Loudoun County, Virginia

www.loudoun.gov

Office of the County Administrator

1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

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At a business meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison St., S.E., Leesburg, Virginia, on Wednesday, July 16, 2014 at 4:00p.m.

INRE: ZOAM 2014-0005/ DOG PARK- RESOLUTION OF INTENT TO AMEND
THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE
(COUNTYWIDE)

Mr. York moved that the Board of Supervisors adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, provided as Attachment 1 to the Action Item for the Board of Supervisors July 16, 2014, Board of Supervisors Business Meeting, in regard to "Dog Park."

Seconded by Mr. Buona.

Voting on the Motion: Supervisors Buona, Clarke, Delgaudio, Higgins, Letourneau, Reid, Volpe, Williams and York – Yes; None -No.

DEPUTY CLERK FOR THE LOUDOUN
COUNTY BOARD OF SUPERVISORS

(11-ZOAM 2014-0005/ DOG PARK- RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE)

July 16, 2014

BOARD OF SUPERVISORS OF LOUDOUN COUNTY

RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN
COUNTY ZONING ORDINANCE TO PERMIT "DOG PARK" IN
HOMEOWNER'S ASSOCIATION ("BOA") OWNED COMMON OPEN SPACE
WITHIN THE PLANNED DEVELOPMENT-HOUSING ZONING DISTRICTS

WHEREAS, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance") in furtherance of the purposes of zoning as set out in § 15.2-2283 of the Code of Virginia and to further implement the comprehensive plan; and

WHEREAS, the Zoning Ordinance currently only permits "Dog Park" as a Special Exception Use in the Planned Development-Transit Related Center (PD-TRC) Zoning District; and

WHEREAS, the Board of Supervisors wishes to initiate amendments to Articles 3, 4, 5, and 8 of the Zoning Ordinance in order to permit "Dog Park" in HOA owned common open space within PD-H Zoning Districts.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance as follows:

1. Amend Article 8. Definition of "Open space, common", to specify that a non-commercial "Dog Park" is permitted in HOA owned open space within the PDH Zoning District.
2. If necessary, amend Articles 3 and 4 to implement the foregoing amendments.
3. If necessary, amend Section 5-600 et seq., Additional Regulations for Specific Uses, to establish Additional Regulations for "Dog Park", to implement the foregoing amendments.
4. If necessary, amend Article 8, Definitions, to revise the definition of "Dog Park", to implement the foregoing amendments.
5. Amend such other sections of the Zoning Ordinance as may be necessary to fully implement and to maintain consistency with the foregoing amendments, to correct typos and update references, and to achieve the full intent of this Resolution.

BE IT FURTHER RESOLVED that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) staff is directed to prepare draft amendments for consideration; and (3) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation and Board of Supervisors' action.

July 16, 2014

BOARD OF SUPERVISORS OF LOUDOUN COUNTY

RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN
COUNTY ZONING ORDINANCE TO PERMIT "DOG PARK" IN
HOMEOWNER'S ASSOCIATION (BOA) OWNED COMMON OPEN SPACE
WITHIN CERTAIN *W/IN* DISTRICTS

WHEREAS, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance") in furtherance of the purposes of zoning as set out in § 15.2-2283 of the Code of Virginia and to further implement the comprehensive plan; and

WHEREAS, the Zoning Ordinance currently only permits "Dog Park" as a Special Exception Use in the Planned Development-Transit Related Center (PD-TRC) Zoning District; and

WHEREAS, the Board of Supervisors wishes to initiate amendments to Articles 2, 3, 4, 5 and 8 of the Zoning Ordinance as necessary, in order to permit "Dog Park" in HOA owned common open space in certain Zoning Districts.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance as follows:

1. Amend Article 8, Definition of "Open space, common", to specify that a non-commercial "Dog Park" is permitted in HOA common open space within the Non-Suburban Districts, such as Countryside Residential (CR-1, CR-2, CR-3, and CR-4), Joint Land Management Area (JLMA-1, JLMA-2, JLMA-3, and JLMA-20), Transitional Residential (TR-10, TR-3, TR-2, and TR-1), Agricultural Residential (A-3), Agriculture (A-10), and Agricultural Rural (AR-1, AR-2) Zoning Districts.
2. Amend Article 8, Definition of "Open space, common", to specify that a non-commercial "Dog Park" is permitted in HOA common open space within the Suburban Districts in the Single Family Residential (R-1, R-2, R-3, R-4, and R-8), Townhouse/Multifamily Residential (R-16), and Multifamily Residential (R-24), Zoning Districts.
3. Amend Article 8, Definition of "Open space, common", to specify that a non-commercial "Dog Park" is permitted in HOA common open space within the Special and Overlay Districts in Planned Development-Housing (PD-H3, PD-H4, PD-H6), Planned Development-Countryside Village (PD-CV), Planned Development-Rural Village (PD-RV), Planned Development-Town Center (PD-TC), Planned Development-Mixed Use Business (PD-MUB), Planned Development-Corridor Mixed-Use (PD-CM) and Planned Development-Active Adult/Age Restricted (PD-AAAR), Zoning Districts.
4. If necessary, amend Articles 2, 3 and 4 to implement the foregoing amendments.

5. If necessary, amend Section 5-600 et seq., Additional Regulations for Specific Uses, to establish Additional Regulations for "Dog Park", to implement the foregoing amendments.
6. If necessary, amend Article 8, Definitions, to revise the definition of "Dog Park", to implement the foregoing amendments.
7. Amend such other sections of the Zoning Ordinance as may be necessary to fully implement and to maintain consistency with the foregoing amendments, to correct typos and update references, and to achieve the full intent of this Resolution.

BE IT FURTHER RESOLVED that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) staff is directed to prepare draft amendments for consideration; and (3) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation and Board of Supervisors' action.

July 16, 2014

PROPOSED WORK PLAN

Amendments to the Revised 1993 Loudoun County Zoning Ordinance to Permit Dog Parks in the Planned Development-Housing (PD-H) Zoning Districts

ANTICIPATED START DATE: July 2014

ANTICIPATED PC PUBLIC HEARING DATE: October 2014

GOAL: Comprehensively review and draft amendments to the Zoning Ordinance, as necessary, to permit "Dog Park" in HOA owned common open space within the PD-H Zoning Districts (PD-H3, PD-H4 and PD-HG).

| ACTION STEPS | RESOURCES | TIMELINE |
|--|---|--|
| 1. <i>Establishment of Project Team</i> | Project Manager: TBD Support Staff: as needed | July 2014 |
| 2. <i>Board Direction/Scope</i> | Project Manager | July 2014 |
| 3. <i>Research</i> | Project Manager | July 2014 |
| 4. <i>Draft Ordinance Changes</i> | Project Manager | July -August 2014 |
| 5. <i>Referrals -21 day turn around</i> | Referral Agencies: <ul style="list-style-type: none">• County Attorney• Planning Department• Parks and Recreation• Health Department• Environmental Review Team | August 2014 |
| 6. <i>Revise Draft Based on Comments</i> | Project Manager | September 2014 |
| 7. <i>Post Draft to Website</i> | Project Manager | September 2014 |
| 8. <i>Resolution of Intent to Amend</i> | Board of Supervisors | September 17, 2014 |
| 9. <i>Planning Commission Public Hearing</i> | Planning Commission | October 21, 2014 |
| 10. <i>Planning Commission Work Session</i> | Planning Commission | TBD |
| 11. <i>Board of Supervisors Public Hearing</i> | Board of Supervisors | November 12, 2014 (Depending on length of PC deliberations) |
| 12. <i>Transportation and Land Use Committee (TLUC) (if necessary)</i> | TLUC | TBD |
| 13. <i>Board of Supervisors Action</i> | Board of Supervisors | TBD |

ZOAM-2014-0005, DOG PARK

PROPOSED DRAFT TEXT OF THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE

ARTICLE 8, DEFINITIONS

Open Space: Areas of trees, shrubs, lawns, grass, pathways and other natural and man-made amenities not within individual building lots, (except in rural village and Countryside Village developments), set aside for the use and enjoyment of residents, visitors and other persons, unoccupied by buildings or facilities unless related to recreational activities and in the TR and JLMA districts HOA facilities, and accessible to and adequate for persons and functions it is designed to serve. Lot coverage in the open space shall be limited to 0.01 of the lot. Generally, open space is intended to provide light and air and is designed for either scenic or recreational purposes. For the purpose of this Ordinance, open space shall include and be qualified as active recreation space, common open space, and dedicated open space.

- a. **Open space, active recreation:** That open space that is designed for recreational purposes, to include, but not to, be limited to such uses as ballfields, multi-purpose courts, swimming pools, tennis courts, golf courses, play lots and playgrounds, camping, picnicking, boating, fishing, equestrian activities, walking and biking trails, and activities incidental and related to the foregoing. (In the TR and JLMA districts, these recreational facilities may include HOA facilities.) Recreational facilities may be open to the public for a fee, provided the intent of the open space requirements is maintained. Examples of acceptable for-fee facilities include golf courses and sports pavilions where such facilities are utilized and enjoyed by the development but that must secure outside users for economic viability.
- b. **Open space, common:** Land within, or related to, a development not individually owned or dedicated for public use which is designed or intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate. In only the Planned Development Housing (PD-H) Zoning District, uses of common open space may also include a dog park provided that the following conditions are met: 1) the dog park is non-commercial in nature; and 2) the homeowners' association (HOA) for such PD-H Zoning District owns and operates the dog park and owns the common open space upon which the dog park is located.
- c. **Open space, dedicated:** All open space which is to be dedicated or conveyed to the County or an appropriate public agency, board, or body for public use as open space. For the purposes of this definition, twenty-five percent (25%) of all dedicated school sites shall be considered as dedicated open space.



**COUNTY OF LOUDOUN
PARKS, RECREATION AND COMMUNITY SERVICES
REFERRAL MEMORANDUM**

To: Val Thomas, Planner, Zoning Administration **(MSC #62)**

From: Mark A. Novak, Chief Park Planner, Facilities Planning and Development **(MSC #78)**

CC: Steve Torpy, Director
Karen Sheets, Deputy Director
Jim Bonfils, Chairman, PROS Board, At-Large Member
Kristen Reed, Vice Chairman, PROS Board, Dulles District
James G. Potter, PROS Board, Algonkian District
Mark Hair, PROS Board, Ashburn District
Rick Stone, PROS Board, Blue Ridge District
John Bumgarner, PROS Board, Broad Run District
Stephen Schultz, PROS Board, Catoclin District
Earl Eck, PROS Board, Leesburg District
Christopher P. Nicholson, PROS Board, Sterling District
Derek Irelan, PROS Board, Open Space Member
Kenneth B. Scott, PROS Board, Open Space Member

Date: August 25, 2014

Subject: **Amendments to the Zoning Ordinance-Dog Parks- ZOAM 2014-0005**

Election District: Countywide **Sub Planning Area:** Countywide

MCPI # Countywide

BACKGROUND:

At its May 15, 2013 Business Meeting, the Board of Supervisors unanimously approved a motion to *"amend its Strategic Plan by adding a zoning ordinance amendment allowing private dog parks within the PD-H zoning district and direct staff to add this item to the work plan and timeline for ongoing initiatives as staff resources become available upon completion of current initiatives of the Board."* At its June 4, 2014 Business Meeting, the Board voted 8-0-1 (Higgins absent) to direct staff to continue forward to complete the existing initiatives identified in the Strategic Plan and to take up dog parks as a priority. At its July 16, 2014 Business Meeting, the Board unanimously approved a Resolution of Intent to Amend the Zoning Ordinance in order to permit "Dog

Park" in HOA owned

common open space within PD-H Zoning Districts. The Board also asked Staff to consider allowing "Dog Park" in areas leased by the HOA in the PD-H Zoning Districts.

The proposed text changes for ZOAM-2014-0005 include amending the definition of "Open space, common" in Article 8, as shown below. There are no additional regulations/performance standards proposed for the use at this time. The HOAs can impose their own regulations regarding the dog park use within their communities.

Open space, common: Land within, or related to, a development not individually owned or dedicated for public use which is designed or intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate, including, without limitation, a non-commercial dog park owned and operated by the homeowners' association (HOA) for a Planned Development-Housing (PO-H) Zoning District and located within common open space owned by the HOA for such PD-H Zoning District.

COMMENTS/RECOMMENDATIONS :

The Department of Parks, Recreation and Community Services (PRCS) has reviewed the proposed text changes for ZOAM-2014-0005 and supports the changes as proposed.

If you have any questions or concerns regarding these comments, please do not hesitate to contact me at 703-737-8992 or mark.novak@loudoun.gov.

County of Loudoun
Department of Planning and Zoning

MEMORANDUM

DATE: September 9, 2014

TO: Valentina Thomas, Senior Planner
Zoning Administration

FROM: Kelly Williams, Planner III
Community Planning

SUBJECT: ZOAM 2014-0005 Amendments to the Zoning Ordinance-Dog Parks

BACKGROUND

The Board of Supervisors has initiated an amendment to the Revised 1993 Loudoun County Zoning Ordinance to allow private dog parks within the PD-H zoning district.

To assist the Zoning Division on the proposed text amendments, Community Planning offers the following information related to the Comprehensive Plan.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

The Revised General Plan is the foundation for amendments to County ordinances to ensure that the County's goals are implemented through the regulatory process. The County's overall land-development strategy is to encourage compact, mixed-use developments that provide people with the opportunity to live, work, recreate and shop in a pedestrian-friendly environment (Revised General Plan, Chapter 5, Residential, text). The Plan does not specifically identify "Dog Parks" as a use within residential areas, however, it does provide guidance on a variety of anticipated active and passive outdoor recreational uses similar to those included in the definition for a "Dog Park" in the zoning ordinance. Adding non-commercial dog parks, to be owned and operated by homeowner's associations, to Planned Development-Housing Zoning Districts, does not conflict with the Residential policies of the Plan. Staff recommends approval of the proposed Zoning Ordinance Amendment.

cc: Julie Pastor, FAICP, Planning Director
Cindy Keegan, AICP, Program Manager, Community Planning, via e-mail

Thomas, Valentina

From: Taylor, Maria
Sent: Wednesday, September 10, 2014 3:14 PM
To: Thomas, Valentina
Subject: ZOAM 2014-0005 Amendments to the Zoning Ordinance -- Dog Parks

Val,

Thank you for the opportunity to review the above captioned application. The Fire and Rescue Planning Staff has no comments.

Maria

Maria Figueroa Taylor
Fire-Rescue Planner
Department of Fire, Rescue and Emergency Management
801 Sycolin Road, Suite 200
MSC # 61
Leesburg, VA 20175

703-777-0333 (main)
703-737-8772 (direct)
571-233-0126 (cell)
703-771-5359 (fax)

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County of Loudoun

Department of Transportation and Capital Infrastructure

MEMORANDUM

DATE: September 12, 2014

TO: Val Thomas, Planner
Department of Planning and Zoning

FROM: Rory L. Toth, CZA, Senior Transportation Planner®
DTCI, Transportation Planning and Operations Division

SUBJECT: ZOAM 2014-0005-Dog Parks
First Referral

Background

This Zoning Ordinance Amendment (ZOAM) proposes to amend the definition of "Open space, common" in Article 8 of the Revised 1993 Zoning Ordinance (Zoning Ordinance) to permit a "Dog Park" in HOA-owned common open space within PD-H Zoning Districts. Furthermore, the Board of Supervisors requested Staff consider allowing a "Dog Park" in areas leased by an HOA in PD-H Zoning Districts. It is noted that this ZOAM proposes no additional regulations/performance standards for dog parks at this time and HOA's can impose their own regulations regarding a dog park use within their communities.

Department of Transportation and Capital Infrastructure's (DTCI's) review of this proposed ZOAM is based on materials received from the Department of Planning and Zoning on August 22, 2014, including (1) a Referral Request Memo, dated August 22, 2014, and (2) ZOAM 2014-0005 Proposed Draft Text Changes to the Article 8 Definition of "Open space, common." A copy of the Dog Park Referral Request Memo and proposed draft text are included in this referral as *Attachment 1*.

Transportation Comments

1. In general, dog parks in HOA open space within PD-H zoning districts are anticipated to serve the communities in which they are located and as such, would not result in a significant number of new vehicle trips on the public roadway network outside of individual developments.
2. DTCI notes that this ZOAM does not propose any revisions to the off-street parking regulations in Section 5-1100 of the Zoning Ordinance for a dog park use. DTCI defers comment to the Department of Building and Development and the Department of Planning and Zoning regarding the need to develop regulations for on-street or off-street parking spaces in order to serve the dog park use.

ATTACHMENT

1. Referral Request Memo, dated August 22, 2014 and Proposed Draft Text Changes to the Article 8 Definition of "Open space, common."
- cc: Kathleen Leidich, AICP, Assistant Director, DTCI
Lou Mosurak, AICP, Senior Coordinator, DTCI

Thomas, Valentina

From: Williford, Randy
Sent: Thursday, September 18, 2014 9:31AM
To: Thomas, Valentina
Subject: RE: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

Val,

We have no concerns with the language. We have some concerns about having dog parks in floodplains or about requirements to remove pet waste. That is not an issue with this ZOAM, but is it somehow covered in the process? Do people have to submit plans for a dog park? What's the process?

Thank you,

Randy Williford
Assistant Director
Dept. of General Services
801 Sycolin Rd SE, Suite 304
Leesburg, VA 20175
703-737-8686

From: Thomas, Valentina
Sent: Wednesday, September 17, 2014 3:54 PM
To: Williford, Randy
Subject: FW: ZOAM-2014-0005, Dog Parks- Request for Referral Comments

Randy,

Attached is the draft language for the ZOAM.
Hope to get your comments by early next week at the latest.

Thanks
Val

From: Stultz, Mark
Sent: Friday, August 22, 2014 5:03 PM
To: Hobbie, Jason; Clare, Gary; Haile, Kevin; Keirn, Marsha; Taylor, Maria; Keegan, Cynthia; Armstrong, Van; Torpy, Steve; Mosurak, Lou; Goodfriend, David; Pezzullo, Richard
Cc: Yudd, Charles; Young, Kenny; Brown, Ron; Pastor, Julie; Merrithew, John E.; Dozier, Nicole; Stultz, Mark; Kelly, Larr; Seigfried, Mike; Thomas, Valentina
Subject: ZOAM-2014-0005, Dog Parks- Request for Referral Comments

All:

Attached, please find a Referral Request Memo and the proposed draft text regarding an amendment to the Revised 1993 Loudoun County Zoning Ordinance, which proposes to permit "Dog Park" in HOA owned common open space within the PD-H Zoning District. Please review the proposed amendment and provide any comments by September 12, 2014.

The proposed amendment is currently scheduled for the Planning Commission public hearing on October 21, 2014. Please let Val Thomas or me know if you have any questions or if we can provide any additional information. Thank you for time and input.

Mark

Mark Stultz, AICP, CZA
Deputy Zoning Administrator
Loudoun County Department of Planning and Zoning
1 Harrison Street, S.E., 3rd Floor
P.O. Box 7000
Leesburg, VA 20177-7000

703-771-5394 (Direct)
703-777-0441 (Fax)
mark.stultz@loudoun.gov

Thomas, Valentina

From: Keirn, Marsha
Sent: Wednesday, September 17, 2014 1:37PM
To: Thomas, Valentina
Subject: RE: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

Looks fine to me. I have no comment at this time.

MLK

From: Thomas, Valentina
Sent: Wednesday, September 17, 2014 11:58 AM
To: Keirn, Marsha
Subject: RE: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

Hi Marsha,

Just following up on the referral request for the above ZOAM and if you have any comments. This is going to the PCPH in October.

Thanks
Val

From: Stultz, Mark
Sent: Friday, August 22, 2014 5:03 PM
To: Hobbie, Jason; Clare, Gary; Haile, Kevin; Keirn, Marsha; Taylor, Maria; Keegan, Cynthia; Armstrong, Van; Torpy, Steve; Mosurak, Lou; Goodfriend, David; Pezzullo, Richard
Cc: Yudd, Charles; Young, Kenny; Brown, Ron; Pastor, Julie; Merrithew, John E.; Dozier, Nicole; Stultz, Mark; Kelly, Larr; Seigfried, Mike; Thomas, Valentina
Subject: ZOAM-2014-0005, Dog Parks- Request for Referral Comments

All:

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Mark

Mark Stultz, AICP, CZA
Deputy Zoning Administrator
Loudoun County Department of Planning and Zoning

1Harrison Street, S.E., 3rd Floor
P.O.Box 7000
Leesburg, VA 20177-7000

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703-777-0441 (Fax)
mark.stultz@loudoun.gov

Thomas, Valentina

From: Reyes, Juan
Sent: Wednesday, September 17, 2014 4:39 PM
To: Stultz, Mark; Thomas, Valentina
Subject: FW: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

Mark and Val; we had previously reviewed this proposal and had no issues with it. We took the email literally since it only asked for comments, so we did not think you needed an actual note indicating that we have none. Sounds like you wanted confirmation as well, so please use this note to that affect. Thanks.

Juan Reyes
Environmental Health Manager
Loudoun County Health Department
Virginia Department of Health
1 Harrison Street, SE
Leesburg, VA 20175
Office (703) 737-8739

From: Goodfriend, David
Sent: Wednesday, September 17, 2014 4:11 PM
To: Reyes, Juan
Subject: Fw: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

Could you please respond to this email?

From: Thomas, Valentina
Sent: Wednesday, September 17, 2014 11:58 AM
To: Goodfriend, David
Subject: RE: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

Dr. Goodfriend,

Just following up on the referral request for the above ZOAM and if you have any comments. This is going to the PCPH in October.

Thanks
Val

From: Stultz, Mark
Sent: Friday, August 22, 2014 5:03 PM
To: Hobbie, Jason; Clare, Gary; Haile, Kevin; Keirn, Marsha; Taylor, Maria; Keegan, Cynthia; Armstrong, Van; Torpy, Steve; Mosurak, Lou; Goodfriend, David; Pezzullo, Richard
Cc: Yudd, Charles; Young, Kenny; Brown, Ron; Pastor, Julie; Merrithew, John E.; Dozier, Nicole; Stultz, Mark; Kelly, Larr; Seigfried, Mike; Thomas, Valentina
Subject: ZOAM-2014-0005, Dog Parks - Request for Referral Comments

All:

Attached, please find a Referral Request Memo and the proposed draft text regarding an amendment to the Revised 1993 Loudoun County Zoning Ordinance, which proposes to permit "Dog Park" in HOA owned common open space within the PD-H Zoning District. Please review the proposed amendment and provide any comments by September 12, 2014.

The proposed amendment is currently scheduled for the Planning Commission public hearing on October 21, 2014. Please let Val Thomas or me know if you have any questions or if we can provide any additional information. Thank you for time and input.

:Jvt.ark

Mark Stultz, AICP, CZA
Deputy Zoning Administrator
Loudoun County Department of Planning and Zoning
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Leesburg, VA 20177-7000

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mark.stultz@loudoun.gov

County of Loudoun

Department of Building and Development

MEMORANDUM

DATE: September 25, 2014

TO: Val Thomas, Planner, Zoning Administration

FROM: Laura Edmonds, Environmental Review Team Leader

SUBJECT: ZOAM 2014-0005, Amendments to the Zoning Ordinance Dog Parks

On August 22, 2014, the Environmental Review Team (ERT) received a referral to review draft amendments to the Revised 1993 Loudoun County Zoning Ordinance to permit "Dog Parks" to be located in Homeowners Association (HOA)-owned common open space within Planned Development – Housing (PO-H) Zoning Districts. Dog Parks are currently permitted as a Special Exception use in the Planned Development- Transit Related Center (PD-TRC) Outer Core. ERT has reviewed the draft text and provides the following recommendations.

Recommendations:

The staff referral notes that no regulations/performance standards are proposed for the use at this time and that HOAs can impose their own regulations regarding the Dog Park use within their communities.

Given that pet waste is a nonpoint source of fecal coliform and E. Coli bacteria associated with stream impairments identified in Loudoun County by the Virginia Department of Environmental Quality, staff recommends consideration of the following environmental performance standards to minimize impacts to water quality:

- Prohibiting Dog Parks in the Major or Minor Floodplain and within 50 feet of jurisdictional waters and wetlands based on a jurisdictional determination approved by the Army Corps of Engineers. Floodplain data is posted on WebLOGIS (the County's online mapping system) and the jurisdictional determination is typically provided by applicants at the time of the rezoning and is required prior to issuance of the grading permit; therefore, this information should be readily accessible to an HOA planning a Dog Park.
- Requiring a minimum of one waste bag dispenser and one covered trash receptacle to be located at each entrance to the Dog Park enclosure and maintained by the HOA to encourage proper waste disposal.

The Fairfax County Park Authority has established standards for Off-Leash Dog Areas in County Parks operated through public/private partnerships that prohibit them from being located within floodplains and the Resource Protection Area (100 feet from perennial

streams and connected wetlands) and require bag dispensers and trash receptacles [http://www.fairfaxcounty.gov/parks/olda_development.htm]. In addition, the American Kennel Club has published a brochure entitled "Establishing a Dog Park in Your Community" with recommended standards for Dog Parks, which addresses topics such as adequate drainage, surface material, covered trash receptacles, waste bags, the size of the enclosure, fence height, the establishment of separate areas for large and small dogs, required signage displaying park rules and operational hours, etc. that may be useful to HOAs interested in establishing Dog Parks [<http://www.akc.org/pdfs/GLEG01.pdf>].

Staff recommends that any performance standards developed in conjunction with this zoning ordinance amendment also apply to Dog Parks permitted within the PD-TRC zoning district.